

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Ronald A. Guzman	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 5893	DATE	3/13/2009
CASE TITLE	Lawrence E. Jaffe Pension Plan vs. Household International, Inc.		

DOCKET ENTRY TEXT

For the reasons set forth in this Order, the Court grants in part and denies in part plaintiffs' motion in limine no. 10 to exclude certain testimony of defendants' expert John Bley [doc. no. 1346].

Docketing to mail notices.

	Courtroom Deputy Initials:	LC/LM
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Proposed defense expert John Bley was the Director of the Washington Department of Financial Institutions (“DFI”) from 1993-2001. (*See* Pls.’ Mem. Law Supp. Pls.’ Mot. Exclude Certain Testimony Defs.’ Expert John Bley, Ex. A, Bley Report at 2.) Therefore, he can testify about the processes DFI used to examine financial institutions when he was its director, the frequency with which such examinations ended in settlements, and the practices field examiners used. He can also testify, based on that experience, about the significance and effect of “apparent” findings, like those contained in the Expanded Report of Examination for Household Finance Corporation III as of April 30, 2002 (“DFI report”), and the adequacy of Household’s internal controls as disclosed in the materials he reviewed.

However, he has no basis for testifying that: (1) “in most cases . . . a licensee makes the business decision that it is not worthwhile to engage in litigation with its regulators”; (2) “Household diligently tracked all complaints that were not immediately resolved at branch level”; (3) “[n]ew policies and procedures were vetted by Household’s legal department”; (4) Household’s “Pay Right Rewards” program is an “alternative mortgage transaction” as defined by the Alternative Mortgage Transactions Parity Act (“AMPTA”); and (5) Household’s July 2002 effective rate review was based on “all customer complaints” received by the company during a given period or that its conclusions are accurate. (Pls.’ Mem. Law Supp. Pls.’ Mot. Exclude Certain Testimony Defs.’ Expert John Bley, Ex. A, Bley Report at 10, 20, 22, 40-41, 61.)

Further, Bley’s statements that the DFI report “is not . . . backed by the moral authority” of the Washington government and that the findings of such reports, when they prompt settlements, can be “analog[ized] to allegations in a civil complaint against a defendant who eventually decides to settle” are unsupported arguments, not expert testimony. (*See id.* at 10, 16.)

Finally, Bley’s proffered opinions that “consumers evaluating loan options are particularly sensitive to the amount of their monthly payment” and it is “inadvisable to reach broad conclusions based solely upon after-the-fact consumer representations when there is an incentive for the consumer to rewrite history” are common-sense concepts on which expert testimony is not required. (*See id.* at 24 n.56, 29.)